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STATE OF WISCONSIN

BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

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In the Matter of Petition of the

HUDSON POLICE PATROLMAN'S ASSOCIATION,  
WISCONSIN PROFESSIONAL POLICE ASSOCIATION/  
LAW ENFORCEMENT EMPLOYEE RELATIONS  
DIVISION

and

CITY OF HUDSON

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Case 26  
No. 46682  
MIA-1667  
Decision No. 27329-A

APPEARANCES

Richard T. Little                      Bargaining consultant, WPPA/LEER, for  
the Association (Union)

Clarence Ranallo                      Representative, City of Hudson  
(Employer)

INTRODUCTION

On August 4, 1992, The Wisconsin Employment Relations Commission (WERC) appointed the undersigned to act as arbitrator pursuant to Section 111.77 of the Municipal Employment Relations Act (MERA) in the dispute between the Hudson Police Patrolman's Association (hereinafter the "Union") and the City of Hudson ( hereinafter the "City" or the "Employer"). On October 8, 1992 an arbitration hearing was held between the parties pursuant to statutory requirements, and the parties agreed to submit briefs. Briefing was completed on November 12, 1992. The arbitration award is based upon a review of the evidence, exhibits and arguments, utilizing the criteria set forth in Sections 111.,77 (6), Wis. Stats.

ISSUE

Shall the Labor Agreement between the parties be amended to include the language contained in the Union's final offer or shall it be amended to include the language contained in the Employer's final offer.

OVERVIEW

The final offers here have raised three issues. The first is wages, an issue addressed by both parties. the second is health insurance, with the Union content to leave the contract language as it is presently. The Employer has asked for percentage

contributions to premiums from the bargaining unit members. Finally, the city wants to change a "pick-up" practice in use at shift changes. The Union would keep the present practice in force.

In this award each issue shall be discussed separately.

### COMPARABLES

Each party relies upon a separate set of comparables to support their main issue. The Association would have the Arbitrator use a list of comparables that has been recognized in past arbitration disputes between the parties. The Employer puts its primary emphasis upon internal comparables.

### THE UNION'S POSITION

The Union harks back to prior arbitration awards involving the parties. As recently as 1989 arbitrator Imes gave it as her opinion that the municipalities of New Richmond, Prescott and River Falls are those that best fulfill the requirements of comparable size, mean income, overall municipal budget, department size, wages and fringe benefits and geographic proximity to Hudson. She accepted as secondary comparables Saint Croix County and the municipalities of Altoona, Baraboo, Delevan, Dodgeville, Ladysmith, Menominie, Rice Lake, Sheboygan Falls, Somerset and Tomah.

The Union would have the arbitrator here reject the internal comparables and larger city employers relied upon by the City. No foundation has been laid for reliance upon them by the employer nor has the City given adequate reason to reject the traditional comparables utilized by the Association.

### THE CITY'S POSITION

The City has not presented arguments in opposition to the Union's set of comparables, nor has it argued in support of the large-city employers whose labor agreements have been presented as exhibits. It has argued that the internal comparable conditions of employment and compensation offer the most meaningful body of information to the arbitrator here. It feels that it is fair and equitable to have the wages and conditions of employment for the police be in line with that of their fellow city employees.

### DISCUSSION

The comparable situation here is unusual. Neither party includes even one of the other's in its list. The City presents internal comparables and those of some larger municipalities. The Union is relying on police units previously accepted as comparable.

The statute requires an arbitrator to compare both internal and external comparables, so it is not improper for the parties to select the groups they have chosen. The Association's list has the advantage of being established in past proceedings, and is compatible to the statutory descriptions of comparables. The Union

is correct when it states that treating this bargaining unit in a manner unlike that of comparable police departments could have an adverse effect upon the morale of the Hudson police and thus might tend to work against the interest of the public, which benefits from a strong, well trained force with high morale.

The City's reliance on internal units has merit. However, the job functions of the various worker classifications makes it hard to determine true comparability. There is no doubt that the professional functions of a police officer differs from city hall employees, public works workers or unrepresented employees. Unfortunately the record here does not show differences in hours of work, compensation and other conditions of employment between the police officers and other City employees. Without that information it is almost impossible to make meaningful comparisons between those involved in these proceedings and those who are not.

Therefore, the Union's set of comparables, which are unchallenged, shall be the primary set, and those presented by the City shall be considered secondary, with the exception of the out of town units which are not relevant here.

#### WAGES

##### THE CITY'S POSITION

The City has offered raises of 3.5% in each year of the labor agreement. This is characterized by the City as generous and in excess of the Consumer Price Index, and is therefore fair and reasonable. It is not possible, from the exhibits or briefs presented to determine the basis for this position, but it is possible to agree that the wage offer is in excess of that asked by the Union.

##### THE UNION'S POSITION

The Association points out that its final offer for wages is lower than that of the Employer and is well within the wage offers and settlements in comparable police units. It is, therefore, a modest request and should be recognized as such. The Hudson Police officers have historically been well paid and this wage offer will tend to bring this force more in line with comparable police units. It is certain that the percentage increase involved here is below the average granted to this Union's fellow police officers.

#### INSURANCE CONTRIBUTION

##### THE CITY'S POSITION

The costs of health insurance are going up faster than any other employee benefit costs. More and more, employers in both the public and private sectors are attempting to reduce the adverse impact of this trend by asking employees to share in a modest way in the cost. The city is proposing that the Union members shoulder 5% of the cost of their health insurance during the term of this

contract. In light of the annual cost increases of between 13,8% and 16.8%. this is a cost that the police officers may easily bear. The City has endeavored to ease the burden upon its officers by offering them a pay raise in excess of that which they request.

#### THE UNION'S POSITION

The Union's position can be stated easily. It believes that the City simply has not built a sufficiently strong case to justify a finding in favor of the City's insurance proposal. It is the duty of the party asking for changes in the contract's terms to present enough evidence to require change. The Union strongly urges the arbitrator to find that the Employer has failed to carry the burden placed upon it.

The Association also argues that the internal comparables, standing alone, are not enough to justify the change in language. It may well be that all the other employees of the City of Hudson have agreed to a contribution toward health insurance and to a wage package similar to that offered to the police here. But the burden assumed by the City is not met by merely referring to these settlements. It must show the arbitrator that the entire spectrum of wages and conditions of employment in the other units requires conformity by this Union and its members. This, the Union avers, is a burden the City has not met.

#### REPORTING REQUIREMENTS

#### THE UNION'S POSITION

According to the Union the Employer has again failed to bear the burden of justifying a change in contract language. The police officers have had a long-standing arraignment at the time of shift changes. The officer going off duty drives to the residence of the relief officer and together they go to the station where they go over the information and duties that the relieving officer needs to know as well as get information and instructions from superior officers.

When this procedure is completed, the officer on duty drives the other home and goes on with the shift. The Union supports this procedure and believes it is in the best interests of the community and of the police officers that it be continued, absent any convincing proof that the contract language be changed.

In the Union's view, other problems have not been dealt with by the Employer's proffered language. What happens if a relieving officer is late arriving at the station? Will an officer be penalized or not should that occur? If an officer has no car, how will compensation be arranged to provide one to the officer? Until these and other questions are answered, the Association believes the City's language must be rejected by the arbitrator.

## THE CITY'S POSITION

The Chief of Police provided the rationale behind the City's offer. He feels that the present system results in a disorganized shift-change situation. At no time are all of the relieving officers assembled in one place to receive information and instructions from their superiors. The present arrangement can sometimes cause the shift change to drag on for a long time and some officers receive information that others do not. The superior officers must stay around until the last relieving officer has been briefed before their own shift ends. The offered language would result in uniformity, would increase department efficiency, and benefit the public at large.

## DISCUSSION

In this discussion, the parties' wage offers will be dealt with last. The proffered language alteration, both part of the City's final offer, will determine the outcome of this matter. Normally an arbitrator would review the two provisions separately and choose between them. In this case, however, the two changes have the same problems and so they will be dealt with as a unit.

It is not unusual to have alterations made to contract language. Even in this case there may well be contract language changes that the parties have agreed to and are part of the stipulations that are never seen by the arbitrator. And this is the preferred manner for language change to be adopted. If the parties have bargained for change it is assumed that there has been a meeting of the minds and both sides understand not only what the words say but what they mean.

This is not the case here nor is it the case any time changes are a part of an arbitration proceeding. For this reason arbitrators are agreed that the moving party must bear a heavy burden in support of its proffered terminology. This writer has utilized a three part standard. The first is that a problem exists that may be addressed by contractual language. Second it must be made clear that the present language does not adequately deal with the problem. The third is that the proffered language may be reasonably expected to solve the problem. Each standard must be satisfied in order to proceed to the next.

In this case, there is an unfortunate lack of support for the City's position. Contract language agreed to by other unions has been presented to the arbitrator, but except for their wage and insurance language no attempt was made to relate the terms and conditions of employment to those of the police force. No argument was presented as to why the internal comparables should be preferred to the external comparables with other police officers. One does not need to have the rapid increase in health cost simply referred to. It is necessary to show more in order to establish that a problem exists and that the contract language is in any way responsible for the problem. Absent that sort of showing, it cannot

be said that the City has borne its burden of support for the alterations in the contract language.

Not only that, the City limited its support for the reporting language to the testimony of the chief at the hearing. This testimony was rebutted by the Union at the hearing and was addressed by the Union in its brief. The City's brief is silent on the question. Under such conditions it would not be possible to support the Employer's suggested contract language changes.

Turning to the wage offer, cases where an attempt is made to buy out a benefit usually never reach the arbitration process. When they do they are subject to close scrutiny by an arbitrator and must be supported by argument and evidence. In this case it is not possible to find that the Union is being obdurate in its refusal to accept the City's wage offer as sufficient to justify language change.

#### DECISION

In this matter the City of Hudson has taken on a heavy burden of evidence and argument. For the reason set forth above, this burden has not been met. This requires the following:

#### AWARD

The language contained in the final offer of the Hudson Police Patrolman's Association shall be incorporated into the labor agreement between the parties.

Dated this 24th day of July, 1993.

  
ROBERT L. REYNOLDS, JR.  
Arbitrator.  
*By: V. J. H.*